

PT 03-2

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

MCDONOUGH HOSPITAL DISTRICT

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

A.H. DOCKET #

00-PT-0063

DOCKET #

00-55-01

P.I. #

11-301-154-00 (PT OF)

Barbara S. Rowe

Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. A. Anthony Ashenhurst, Westervelt, Johnson, Nicoll & Keller for McDonough Hospital District; Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held to determine whether part of McDonough County Parcel Index No. 11-301-154-00 qualified for exemption during the 2000 assessment year.

Ms. Angela Morrell, Director of Volunteer Services at McDonough District Hospital (hereinafter referred to as the "Applicant") was present and testified on behalf of applicant.

The issue in this matter is whether the portion of the parcel in question was used by applicant for exempt purposes during the 2000 assessment year. Applicant requested an exemption for 59% of the assessment year, specifically from June 1, 2000. (Applicant's brief p. 9) After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be granted from June 1, 2000 through December 31, 2000. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that a part of McDonough County Parcel Index No. 11-301-154-00 did not qualify for a property tax exemption for the 2000 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 7)

2. The Department received the request for exemption of the subject parcel from the McDonough County Board of Review. The board recommended granting a full year exemption. The Department denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. I take administrative notice that applicant was created pursuant to the Hospital District Law found at 70 ILCS 910/1 *et. seq.* Applicant is a municipal corporation. *Id.* at 910/15

4. The applicant acquired the subject parcel by a warranty deed dated April 11, 1956. Located on the portion in question is the “Westervelt Hospitality House”, a 2016 square foot one-story house used by families of patients in the adjacent McDonough District Hospital. (Dept. Ex. No. 1; Applicant’s Ex. No. 1)

5. Larry Westervelt died in 1977 and left a \$300,000 bequest to applicant to establish a hospitality house for outpatients, relatives and friends of patients of applicant. Applicant built the hospitality house, which was available for occupancy after June 1, 2000. (Applicant’s Ex. No. 1)

6. The Westervelt house is comprised of a laundry room, kitchen, rest room, waiting/family room, and four bedrooms, each with a private bath. Guests at the home are asked to pay \$15.00 per night to help defray the costs of maintenance and daily operations of the home. Financial assistance is available for persons that cannot afford the \$15.00 daily charge. (Applicant’s Ex. No. 1)

7. Thirty-six families used the home in 2000. Applicant reduced or waived fees for eight of those guests. (Applicant’s Ex. No. 1)

8. The purpose of the Westervelt home is to provide family members, caregivers and outpatients with comfortable, convenient and affordable short-term housing within easy access of applicant’s facilities. (Applicant’s Ex. No. 1)

9. Volunteers of applicant, as available, staff the home during weekdays from 7 a.m. to 8 p.m. Guests must be able to function independently for all activities of daily living or have someone stay with them to assist with their needs. Rooms are assigned on a critical first-come/first-serve basis. The home is unable to accommodate children under the age of 8. (Applicant's Ex. No. 1)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989); and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). From the foregoing cases it is clear that the burden of proof is on the one seeking the exemption to establish that it is entitled to the exemption. Rogy's New Generation v. Department of Revenue, 318 Ill.App.3d 765, 771 (1st Dist. 2000).

The General Assembly declared the purposes and creation of the Hospital District Law, at 70 ILCS 910/1 *et seq.*, as follows:

The establishment, maintenance and operation of safe and accessible hospitals within the State of Illinois and the creation of Hospital Districts having powers necessary or desirable for the establishment and continued maintenance and operation of such hospitals are declared and determined to be in the interest of public health. 70 **ILCS** 910/2

Applicant has powers specified at 70 **ILCS** 910/15. That section of the statute states:

A Hospital District shall constitute a municipal corporation and body politic separate and apart from any other municipality, the State of Illinois or any other public or governmental agency and shall have and exercise the following governmental powers, and all other powers incidental, necessary, convenient, or desirable to carry out and effectuate such express powers.

1. To establish and maintain a hospital and hospital facilities within or outside its corporate limits, and to construct, acquire, develop, expand, extend and improve any such hospital or hospital facility....

Facilities are defined at 70 **ILCS** 910/3, the definition section of the Law. It states:

...
(c) “Facilities” means and includes real estate and any and all forms of tangible and intangible personal property and services used or useful as an aid, or constituting an advantage or convenience to the safe and efficient operation or maintenance of a public hospital. “Facilities” shall also include, but not be limited to, any clinics, dispensaries, physician offices, surgery centers, diagnostic facilities, and congregate housing units.

Special purpose municipal corporations qualify for property tax exemptions pursuant to 35 **ILCS** 200/15-75, which states as follows:

All market houses, public squares and other public grounds owned by a municipal corporation and used for public purposes are exempt.

The statute does not define public purposes. The court in Sanitary Dist. of Chicago v. Martin, 173 Ill. 243 (1898) discusses the fact that properties owned by municipal corporations must be used for public purposes and that the language “of the revenue act shows that it was not the legislative intent to exempt all property, of every kind and character belonging to municipal corporations.” *Id.* at 247-48 The court found the lands at issue in Sanitary Dist. were necessary for the construction of the channel for the district for the purpose of drainage and were not used for public purposes.

Similarly, in Forest Preserve of DuPage County v. Department of Revenue, 266 Ill.App.3d 264 (2nd Dist. 1994) the court held that the operation of a landfill by a for-profit business, with royalties flowing to the Forest Preserve District, showed that the primary use of the property was for non-public purposes and denied the requested exemption.

In Northwest Suburban Fellowship, Inc. v. Department of Revenue, 298 Ill.App.3d 880 (1st Dist. 1998) Northwest, a non-profit corporation, maintained space, facilities, and supplies for meetings of Alcoholic Anonymous and its family service groups such as Alanon and Alateen. The court found this use to be a public purpose. Citing People ex rel. Lawless v. City of Quincy, 395 Ill. 190 (1946) the court stated:

[T]he court affirmed a tax exemption for a municipal airport, pursuant to a statute exempting public grounds owned by a municipality and used exclusively for public purposes (now embodied in 35 ILCS 200/15-75 (1996)). The *Lawless* court indicated that property is used for public purposes when it is open on equal terms to use by the public. (citation omitted) Northwest at 891.

Applicant is a hospital district, which according to the statute is a municipal corporation. Property owned by a municipal corporation and used for a public purpose is exempt. In enumerating the powers of applicant, the statute specifically includes congregate housing units in its definition of facilities that applicant is authorized to establish. The subject property has a congregate housing unit on it. Applicant requests a \$15.00 fee per night to stay at the house. The Westervelt House financial assistance policy ensures that all individuals, regardless of ability to pay, are admitted. In fact, applicant waived or reduced fees for eight of the thirty-six families that used the home in 2000. The home is staffed by volunteers of the applicant.

Applicant's hospital qualifies for a property tax exemption under 35 ILCS 200/15-75 as owned by a municipal corporation and used for public purposes. The Westervelt home would not exist but for Larry T. Westervelt and the applicant. The subject property and building are used in conjunction with the hospital to accommodate out-patients and families of patients. It affords the families an opportunity to stay near the patient and participate in decisions regarding the patient's care. It provides a homelike environment for individuals and families who are in

need of lodging and supportive services such as counseling, transportation, and meals. The Westervelt home just as the hospital, is used for public purposes.

For the foregoing reasons, it is recommended that the part of McDonough County Parcel Index No. 11-301-154-00 at issue be granted an exemption from property taxation from June 1, 2000 through December 31, 2000 or for 59% of the 2000 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

Date: February 3, 2003